

Sixth Appellate District

San Jose, California

MONDAY, MAY 18, 1998

H016463 PEOPLE v. PADILLA

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, J.; We concur: Cottle, P.J., Mihara, J.)  
Filed May 18, 1998

The Court met at Palo Alto City County Chambers, 250 Hamilton Avenue, Palo Alto, California. Present: Cottle, P.J.; Bamattre-Manoukian, J., Mihara, J.; and Lori Hazelip, Deputy Clerk.

H016392 PEOPLE v. JACKSON

Cause called and argued by David Y. Stanley appearing for appellant and by Clifford K. Thompson, Deputy Attorney General, appearing for respondent. Cause ordered submitted.

H017244 PEOPLE v. ROBINSON

Cause called and argued by Dallas Sacher appearing for appellant and by Raymond Cardozo, Deputy Attorney General, appearing for respondent. Additional briefing requested. The Attorney General shall file a letter brief within 10 days. Counsel for defendant may file a letter brief in response 10 days thereafter. Upon completion of additional briefing, the matter will be deemed submitted.

H016354 In re SARAH H., A Person Coming Under the Juvenile Court Law

Cause called and argued by Jeffrey H. Greenwald appearing for appellant and by Jan Burland, appearing for respondent Department of Family and Children's Services, and Robert Masterson, Deputy District Attorney, appearing for respondent minors. Cause ordered submitted.

H016875 CONSOLACION v. MARCUS, et al.

Cause called and argued by Barry K. Tagawa appearing for appellant and by Matthew T. Yuen appearing for respondents. Cause ordered submitted.

H017011 EDMISTON v. STATE OF CALIFORNIA FRANCHISE TAX BOARD

Cause called and argued by appellant James Edmiston appearing in Propria Persona and by David Lew, Deputy Attorney General, appearing for respondent. Cause ordered submitted. Court recesses till 1:30 p.m.

The Court reconvened at 1:30 p.m. at Palo Alto City Council Chambers, 250 Hamilton Avenue, Palo Alto, California. Present: Cottle, P.J.; Bamattre-Manoukian, J., Mihara, J.; and David T. Clark, Deputy Clerk.

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H017179 PEOPLE v. BENTING

Cause called and argued by Michael Kresser appearing for appellant and by Allan Yannow, Deputy Attorney General, appearing for respondent. Cause ordered submitted.

H015226 PEOPLE v. LILLY

H015990 PEOPLE v. LILLY

H016982 IN RE MICHAEL JAMES LILLY ON HABEAS CORPUS

Cause called and argued by Victoria Stafford appearing for appellant and by Jeffery Laurence, Deputy Attorney General, appearing for respondent. Cause ordered submitted.

H016723 NGUYEN, et al. v. CITY OF SUNNYVALE

Cause called and argued by Michael Stevens appearing for appellants and by Jeffery Hare appearing for respondent. Cause ordered submitted.

H016694 USHER et al., v. COUNTY OF MONTEREY

Cause called and argued by Mark Witzig appearing for appellant and by Edward Faunce appearing for respondent. Cause ordered submitted. Court is adjourned.

TUESDAY, MAY 19, 1998

H027262 PEOPLE v. LOVATO

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)  
Filed May 19, 1998

H017218 PEOPLE v. RUEDA

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)  
Filed May 19, 1998

H017652 IN RE CHRISTOPHER P., A Person Coming Under the Juvenile Court Law

The judgment is affirmed. (not published)  
(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)  
Filed May 19, 1998

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Tuesday, May 19, 1998 (continued)

H017397 TRAVELERS CASUALTY AND SURETY COMPANY, et al. v. THE SUPERIOR COURT OF SANTA CLARA COUNTY; LOCKHEED MARTIN CORPORATION

Let a peremptory writ of mandate issue directing respondent court to vacate its order of August 8, 1997, denying the motion of Travelers Casualty and Surety Company and Continental Insurance Company for summary adjudication of the sixth cause of action for declaratory judgment-duty to indemnify re OII site, and the seventh cause of action for breach of contract-duty to indemnify re OII site, of the fifth amended cross-complaint, and to enter a new and different order granting the motion. Each party to bear its own costs in this writ proceeding. (published) (Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed May 19, 1998

H016311 IN RE MARRIAGE OF ELAINE AND ALLAN GORE

The portion of the court's order terminating child support for the parties' two older children are reversed. The matter is remanded so that the court can determine whether there has been a material change of circumstances (other than the two children reaching the age of majority) sufficient to justify modification of the previous child support order incorporated into the judgment. The portions of the court's order regarding spousal support and attorney fees are affirmed. The parties are to bear their own costs on appeal. (not published) (Bamattre-Manoukian, J.; We concur: Cottle, P.J., Mihara, J.)  
Filed May 19, 1998

H016494 PEOPLE v. MARTINEZ

We direct the trial court to modify the minute order of January 7, 1997, to reflect that the direct restitution of \$903 for towing and storage costs shall be paid to Heather Costello, the victim's daughter. In all other respects, the judgment is affirmed. (not published) (Bamattre-Manoukian, J.; We concur: Cottle, P.J., Mihara, J.)  
Filed May 19, 1998

WEDNESDAY, MAY 20, 1998

H016526 GARRITY v. THRIFTY PAYLESS INC.

The judgment is reversed as to the first cause of action and affirmed as to the second and third. Appellant is awarded costs on appeal. (not published) (Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed May 20, 1998

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Wednesday, May 20, 1998 (continued)

H016506 PEOPLE, EX REL. v. DEPT. OF TRANSPORTATION

(Filed order modifying opinion.) The opinion filed February 17, 1998, is modified in the following particular: On page 6, the following sentence in the section entitled Disposition: Respondent is awarded costs on appeal. This modification changes the judgment. (not published)

(Premo, Acting P.J.; Elia, J.; Wunderlich, J.)

Filed May 20, 1998

H017235 PEOPLE v. VALDEZ

The judgment is affirmed. (not published)

(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)

Filed May 20, 1998

H017580 PEOPLE v. VELASCO

The judgment is affirmed. (not published)

(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)

Filed May 20, 1998

H015976 IN RE JAIME M., et al., MINORS

The appeal is dismissed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed May 20, 1998

THURSDAY, MAY 21, 1998

H017131 PEOPLE v. ESPINO

The judgment is affirmed. (not published)

(Cottle, P.J.; We concur: Bamattre-Manoukian, J., Mihara, J.)

Filed May 21, 1998

H016529 DFCS v. JONATHAN P.

The order appointing legal guardians, the order terminating dependency jurisdiction, and the order recognizing the guardians discretion to permit future visitations are affirmed. (not published)

(Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.)

Filed May 21, 1998

H015626 PEOPLE v. NORAT

(Filed order modifying opinion.) Appellant's petition for rehearing is denied. There is no change in the judgment. (not published)

(Bamattre-Manoukian, J.; Cottle, P.J.; Mihara, J.)

Filed May 21, 1998

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Thursday, May 21, 1998 (continued)

H016607 PEOPLE v. ANDRE S.

This matter is remanded to the trial court with directions to determine whether counts 2 and 4 are felonies or misdemeanors. The trial court is also directed to resentence defendant pursuant to the holding in People v. Yeats, supra, 66 Cal.App.3d 874, that battery is not a lesser included offense of assault. The trial court is further directed to stay the sentences for counts 2 and 4, as conceded by respondent. In all other respects, the judgment is affirmed. (not published) (Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.) Filed May 21, 1998

H017000 PEOPLE v. ROMAN

The judgment is affirmed. (not published) (Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.) Filed May 21, 1998

FRIDAY, MAY 22, 1998

H016720 PEOPLE v. CAMPOS

The judgment is affirmed. (not published) (Elia, J.; We concur: Premo, Acting P.J., Wunderlich, J.) Filed May 22, 1998

H016910 PEOPLE v. GARCIA

The judgment is affirmed. Counsel's motion to withdraw as attorney of record is granted as of the filing of this opinion. (not published) (Premo, Acting P.J.; We concur: Premo, J., Wunderlich, J.) Filed May 22, 1998

H017866 PEOPLE v. ETHERIDGE

The judgment is affirmed. Counsel's motion to withdraw as attorney of record is granted as of the filing of this opinion. (not published) (Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.) Filed May 22, 1998

H016603 PEOPLE v. NOWICKI

The conviction is affirmed. The matter is remanded with instructions that the trial court vacate the void portion of the March 4 judgment, enter its findings on the March 13 trial of the prior convictions and the not guilty by reason of insanity plea, and impose a sentence authorized by law. (In re Sandel, supra, 64 Cal.2d at p. 418.). (not published) (Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.) Filed May 22, 1998

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Friday, May 22, 1998 (continued)

H015496 ANDRES, et al. v. YOUNG MEN'S CHRISTIAN ASSOCIATION

The judgment is affirmed. (published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed May 22, 1998

H017329 PEOPLE v. RUDE

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed May 22, 1998

H017577 PEOPLE v. BLACKMON

The judgment is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed May 22, 1998

H016444 PEOPLE v. VAN LAM

The judgment is reversed, and the matter remanded for further proceedings on the strike prior conviction allegation. The People shall have 30 days from the date our decision becomes final within which to elect to retry the allegation. If the People elect not to do so, then the court shall resentence defendant and enter a new judgment. (not published)  
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)  
Filed May 22, 1998

H016937 PEOPLE v. BOCANEGRA

The judgment is affirmed. (not published)  
(Wunderlich, J.; We concur: Premo, Acting P.J., Elia, J.)  
Filed May 22, 1998

H017365 BREWER v. 20TH CENTURY INSURANCE

The order denying plaintiff's motion to compel arbitration is affirmed. (not published)  
(Premo, Acting P.J.; We concur: Elia, J., Wunderlich, J.)  
Filed May 22, 1998

H016663 PEOPLE v. BAUTISTA

The judgment is affirmed. (not published)  
(Bamattre-Manoukian, J.; We concur: Cottle, P.J., Mihara, J.)  
Filed May 22, 1998

H016013, H016721, H016913 DFCS v. CHARLES S.

H017311 IN RE CHARLENE S., a Minor, on Habeas Corpus.

We affirm the jurisdictional and dispositional orders of August 30, 1996, the orders at the six-month review on March 6, 1997, and the subsequent orders regarding visitation dated April



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8, 1997, May 8, 1997 and May 13, 1997. We deny the petition for a writ of habeas corpus. (not published)  
(Bamattre-Manoukian, J.; We concur: Cottle, P.J., Mihara, J.)  
Filed May 22, 19980